
A. REPORT TO THE HEARING EXAMINER

HEARING DATE: November 14, 2016

Project Name: 4242 East Valley Road Rezone

Owner: Kaya Hasanoglu, 2125 1st Ave, #2105, Seattle, WA 98121

Applicant: Owner

Contact: Arne Nelson, 4423 193rd Ave SE, Issaquah, WA 98027

File Number: LUA16-000734, Rezone HE

Project Manager: Paul Hintz, Senior Planner

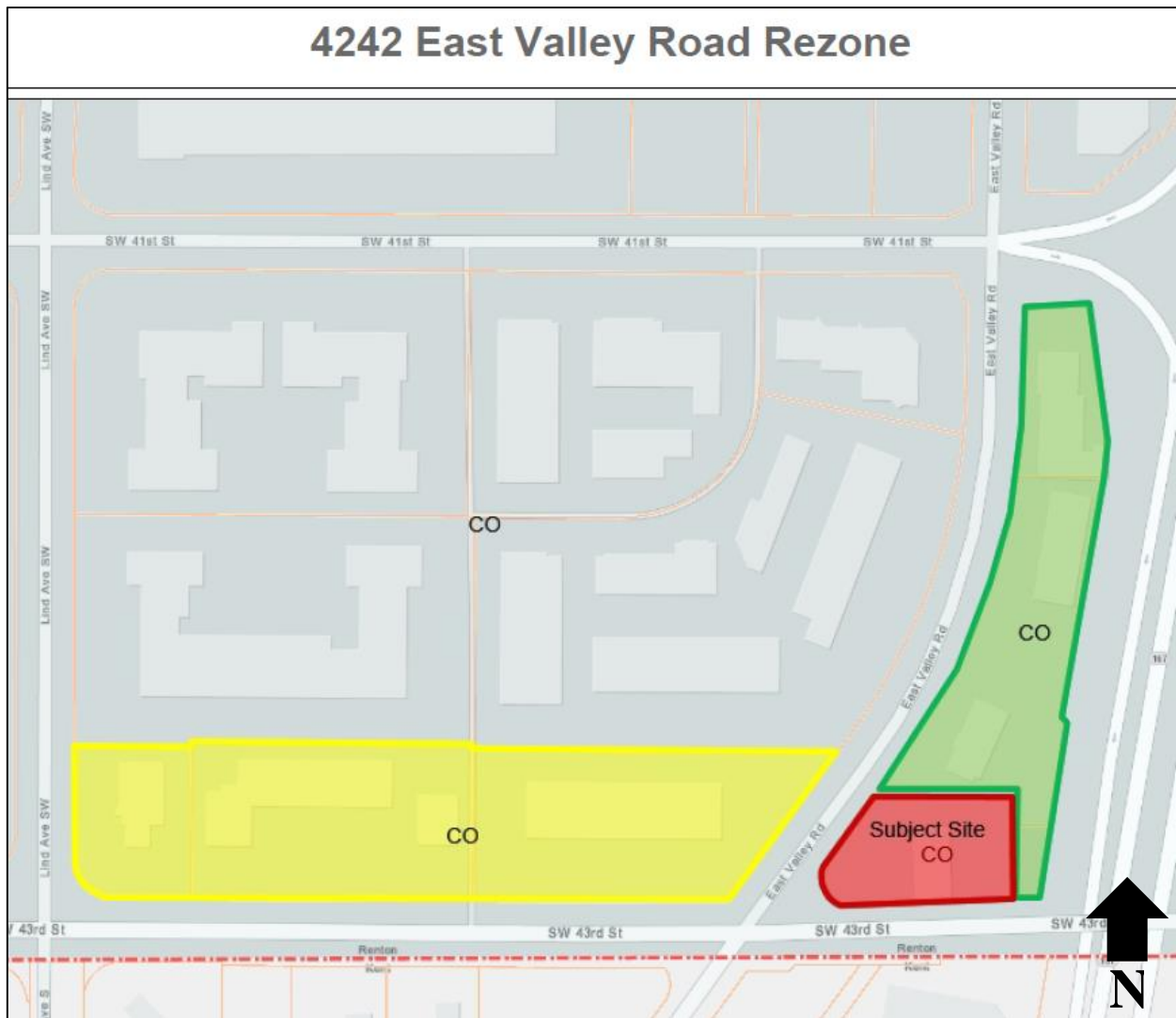
Project Summary: The applicant is requesting approval of a rezone and SEPA Environmental Review for the property located at 4242 East Valley Road (APN 3123059114). The applicant's property is roughly 38,740 square feet (0.89 acres) in area. The rezone is requested to allow retail uses within the existing two-story commercial building. The site is currently zoned Commercial Office (CO), which is generally intended to allow professional, administrative and business offices. The applicant has requested a rezone to Commercial Arterial, which generally provides for a wide-variety of retail sales, services, and other commercial activities along high-volume traffic corridors.

The property is located along the southern City of Renton limits, bounded by a City-owned lot and by WA State Route 167 to the east, a CO-zoned property with commercial uses to the north, East Valley Road to the west followed by a block of commercial properties zoned CO, as well as SW 43rd Street and commercial properties located in the City of Kent to the south.

Staff considered three options in response to the application (refer to the map below). Option 1: rezone of the subject site (shown in red) from CO to CA; Option 2: rezone of the subject site and other parcels within the block (shown in green) from CO to CA; and Option 3: rezone of the subject site (red), the other parcels within the block (green), and the three parcels within the adjacent block to the west that abut SW 43rd Street (shown in yellow).

Project Location: 4242 East Valley Road, Renton, WA 98055

Site Area: Option 1: (subject site): 0.89 acre
Option 2: 3.59 acres
Option 3: 8.81 acres



B. EXHIBITS:

- Exhibit 1: Rezone Vicinity Map (of subject site)
- Exhibit 2: Rezone Vicinity Map (of Options 2 & 3)
- Exhibit 3: Rezone Aerial Map
- Exhibit 4: Existing Zoning Map
- Exhibit 5: Proposed Zoning Map
- Exhibit 6: Title Report
- Exhibit 7: Environmental Review Committee Report
- Exhibit 8: Environmental "SEPA" Determination, ERC Mitigation Measures and Notice
- Exhibit 9: Affidavit of posting and mailing

C. GENERAL INFORMATION:

- 1. **Owner(s) of Record:** Kaya Hasanoglu, 2125 1st Ave, #2105, Seattle, WA 98121
- 2. **Zoning Classifications:** Commercial Office (CO) to Commercial Arterial (CA)
- 3. **Comprehensive Plan Land Use Designation:** Employment Area (EA)
- 4. **Existing Site Use:** Vacant offices
- 5. **Critical Areas:** None
- 6. **Neighborhood Characteristics:**
 - a. **North:** *Commercial Uses; Employment Area (EA) Land Use Designation; Commercial Office (CO) Zone*
 - b. **East:** *City of Renton property with utility building; WA State Route 167*
 - c. **South:** *City of Kent – General Commercial Zone*
 - d. **West:** *Employment Area (EA) Land Use Designation; Commercial Office (CO) Zone*
- 7. **Site Area:** 0.89 acre

D. HISTORICAL/BACKGROUND:

<u>Action</u>	<u>Land Use File No.</u>	<u>Ordinance No.</u>	<u>Date</u>
Pre-app	PRE14-000583	N/A	06/2/2014

E. PUBLIC SERVICES:**1. Existing Utilities**

- a. Water: Water service is provided by the City of Renton.
- b. Sewer: Sewer service is provided by the City of Renton.
- c. Surface/Storm Water: Drainage of surface/storm water is provided by an onsite catch basin, which routes to City of Renton stormwater facilities within the East Valley Road right-of-way.

2. Streets: The site is bounded by two roadways: East Valley Road and SW 43rd Street. East Valley Road is classified as a Collector roadway. SW 43rd Street is classified as a Principal Arterial.**3. Fire Protection**: City of Renton Fire Department**F. APPLICABLE SECTIONS OF THE RENTON MUNICIPAL CODE:****1. Chapter 2 Land Use Districts**

- a. Section 4-2-010: Zones and Map Designations Established
- b. Section 4-2-020: Purpose and Intent of Zoning Districts
- c. Section 4-2-060: Zoning Use Table – Uses Allowed in Zoning Designations

2. Chapter 3 Environmental Regulations – N/A**3. Chapter 4 City-Wide Property Development Standards – N/A****4. Chapter 6 Streets and Utility Standards – N/A****5. Chapter 7 Subdivision Regulations – N/A****6. Chapter 9 Permits – Specific**

- a. Section 4-9-180: Rezone Process

7. Chapter 10 Legal Nonconforming Structures, Uses and Lots**8. Chapter 11 Definitions****G. APPLICABLE SECTIONS OF THE COMPREHENSIVE PLAN:**

1. Land Use Element

H. FINDINGS OF FACT (FOF):

1. The applicant is requesting a rezone and Environmental (SEPA) Review.
2. The 38,740 square foot (0.89 acres) site is located at 4242 East Valley Road, and abuts both East Valley Road and SW 43rd Street.
3. The subject site is currently developed with a two-story office building with 9,072 sq. ft. of floor area, which has been vacant for several years. The parcel includes 53 parking spaces and two access points (one from each abutting roadway).
4. The property is located along the southern City of Renton limits, bounded by a City-owned lot and by WA State Route 167 to the east, a CO-zoned property with commercial uses to the north, East Valley Road to the west followed by a block of commercial properties zoned CO, as well as SW 43rd Street and commercial properties located in the City of Kent to the south.

5. The Planning Division of the City of Renton accepted the above master application for review on September 21, 2016 and determined the application complete on September 30, 2016. The project complies with the 120-day review period.
6. The property is located within the Employment Area (EA) Comprehensive Plan land use designation, which is implemented by the Commercial Office (CO), Commercial Arterial (CA), the Light-, Medium-, and Heavy-Industrial zones (IL, IM, and IH), and the Resource Conservation Zone (RC).
7. The site is zoned Commercial Office (CO). The applicant has requested a rezone to the Commercial Arterial (CA) zone to allow retail uses.
8. Surrounding uses include: a restaurant/bar, a home improvement retail store, and two vehicle service/repair businesses to the north within the same block; East Valley Road immediately to the west followed by an entire block of CO-zoned properties with a mix offices, restaurants, and retail businesses; SW 43rd Street immediately to the south followed by the City of Kent and a wide range of commercial uses; and to the east lies a City of Renton lot with a utility building, followed by the right-of-way of State Route 167 (see Exhibits 1-2).
9. The purpose of the Commercial Office zone is:

“...to provide areas appropriate for **professional, administrative, and business offices and related uses**, offering high-quality and amenity work environments. In addition, a mix of **limited retail and service uses** may be allowed to primarily support other uses within the zone, subject to special conditions. Limited light industrial activities, which can effectively blend in with an office environment, are allowed, as are medical institutions and related uses.”
10. The purpose of the Commercial Arterial zone is:

“...to evolve from “strip commercial” linear business districts to business areas characterized by enhanced site planning and pedestrian orientation, incorporating efficient parking lot design, coordinated access, amenities and boulevard treatment with greater densities. **The CA Zone provides for a wide variety of retail sales, services, and other commercial activities along high-volume traffic corridors.** Residential uses may be integrated into the zone through mixed-use buildings. The zone includes the designated Automall District.”
11. The CO zone is intended to serve professional, administrative, and business offices and related uses; yet most of the surrounding properties (notably those within staff-proposed Options 2 and 3) are used by retail and service businesses. Additionally, the subject site and properties within staff-proposed Options 2 and 3 are located along high-volume traffic corridors, and are therefore more suitable within the CA zone. The subject site, Option 2, and Option 3 are all ineligible sites for multi-family housing in both the CO and CA zones.
12. Although the proposed rezone of the subject site meets the rezone criteria, the rezone of only the subject site would be considered “spot zoning,” which is characterized as applying a zone to a specific parcel or small amount of land thereby granting certain privileges (i.e., allowed uses) that are not afforded to surrounding properties that share common characteristics (e.g., existing land use, access, geography, structures, etc.).
13. Staff presented Option 2 and Option 3 (see Exhibits 1-5) as areas to consider for the rezone from CO to CA in addition to the subject site.
14. Access to the site would be provided via two driveways, one located along each street frontage.
15. The site is mapped with no critical areas.
16. Staff received no public comment letters.
17. No other public or agency comments were received.

18. Pursuant to the City of Renton's Environmental Ordinance and SEPA (RCW 43.21C, 1971 as amended), on **October 17, 2016** the Environmental Review Committee issued a Determination of Non-Significance (DNS) for 4242 East Valley Road Rezone as well as Options 2 and 3 (**Exhibit 8**). A 14-day appeal period commenced on **October 21, 2016** and ended on November 4, 2016. No appeals of the threshold determination have been filed as of the date of this report.
19. Representatives from various city departments have reviewed the application materials to identify and address issues raised by the proposed rezone. These comments are contained in the official file, and the essence of the comments has been incorporated into the appropriate sections of this report and the Recommendation (Section J) at the end of this report.
20. **Comprehensive Plan Compliance:** The subject site (as well as those properties within Option 2 and Option 3) is designated Employment Area (EA) by the City's Comprehensive Plan Map. The purpose of the EA designation is to allow a mix of commercial and industrial uses. The proposal is compliant with the following Comprehensive Plan Goals and Policies:

Compliance	Comprehensive Plan Analysis
✓	Policy L-19: Employment Areas – Place areas primarily used for industrial development, or a mix of commercial and industrial uses such as office, industrial, warehousing, and manufacturing, with access to transportation networks and transit, within the Employment Area (EA) Land Use Designation. Employment Areas provide a significant economic development and employment base for the City. Maintain a variety and balance of uses through zoning which promotes the gradual transition of uses on sites with good access and visibility to more intensive commercial and office uses.

21. **Consistency with Rezone Criteria:** The applicant is requesting a rezone for Commercial Office (CO) to Commercial Arterial (CA) (Exhibits 1-5). The proposal is compliant with the rezone criteria of RMC 4-9-180.F.2:

Compliance	Rezone Criteria
✓	<p>The rezone is in the public interest: <i>The applicant notes that the existing building has been vacant for four years, and recently was the target of "squatters," vandalism, and theft of plumbing fixtures.</i></p> <p>Subject Site: <i>Staff asserts that because the area appears to be a thriving business environment where no other vacant buildings appear to exist, the allowed uses of the CO zone are likely not desired by prospective businesses. Staff considers vacant buildings, and especially those subject to "squatting," vandalism, or theft to be deleterious to the public. Additionally, zoning is intended to protect the welfare, safety, and health of the public and, to that end, aims to allow uses of property that result in an appropriate and best use of the land; therefore, a rezone of the property to expand uses would be in the public's interest as it would likely result in tenancy of the building, which would also likely deter the aforementioned trespassing, vandalism, and theft. Moreover, businesses contribute to the City's tax base and increase resources for public services and infrastructure, therefore, it's in the public interest that the City foster appropriate opportunities for industry.</i></p> <p>Option 2 and Option 3: <i>Staff also asserts that a rezone from CO to CA for the properties within Option 2 and Option 3 (see Exhibits 1-5) is also in the public's interest. Many of the uses within Options 2 and 3 are nonconforming within the existing CO zone; rezoning these areas to CA would render these uses to be conforming. Businesses that are conforming to zoning can more easily secure</i></p>

	<p><i>financing and insurance, and are able to expand services and structures without the need to secure approval through Chapter 10 RMC, Legal Nonconforming Structures, Uses and Lots, or other specialized processes/permits. Stable businesses conforming to zoning are in the public's interest.</i></p>
✓	<p>The rezone tends to further the preservation and enjoyment of any substantial property rights of the petitioner: <i>The applicant contends that the area surrounding the subject site is predominately retail.</i></p> <p>Subject Site: <i>Staff notes that although the surrounding properties [within the City of Renton] are zoned CO, many of their uses would not be permitted under the current zoning. These uses (restaurants, vehicle service and repair, etc.) likely pre-date the existing CO zoning and therefore are nonconforming uses, which are permitted to remain. The existing zoning precludes the property owner from being able to enjoy the same property rights (i.e., permitted uses) of adjacent CO-zoned properties that have the similar characteristics.</i></p> <p>Option 2 and Option 3: <i>Owners of property within both Option 2 and Option 3 have rights to continue the nonconforming uses currently in operation on those properties; therefore, a rezone to the CA zone would further the preservation and enjoyment of substantial property rights of owners of property within Options 2 and 3.</i></p>
✓	<p>The rezone is not materially detrimental to the public welfare of the properties of other persons located in the vicinity thereof: <i>The applicant contends that businesses in the area are predominately commercial retail.</i></p> <p>Subject Site: <i>Staff agrees that many of the surrounding uses are retail and dining establishments that are typically located in the Commercial Arterial zone. Rezone approval would enable the subject site to be used and developed in a manner similar to other properties in the vicinity; therefore, rezone approval would not be materially detrimental to the public welfare of surrounding properties.</i></p> <p>Option 2 and Option 3: <i>These properties are developed and have had the same, if not similar, businesses operating for years. The existing developments and uses of these properties have not proven to be materially detrimental to the public welfare of properties in the vicinity; therefore, staff contends that the rezone of Option 2 or Option 3 would satisfy this criterion.</i></p>
✓	<p>The proposed amendment meets the review criteria in RMC 4-9-020; and</p> <p>a. Is consistent with the policies set forth in the Comprehensive Plan; and</p> <p>b. At least one of the following circumstances applies:</p> <p>i. The property subject to rezone was not specifically considered at the time of the last area land use analysis and area zoning; or</p> <p>ii. Since the most recent land use analysis or the area zoning of the subject property, authorized public improvements, permitted private development or other circumstances affecting the subject property have undergone significant and material change.</p> <p>Subject Site: <i>The CO to CA zone implement the same land use designation, Employment Area, and therefore the rezone would remain consistent with the Comprehensive Plan (see FOF 15 for the specific policy).</i></p> <p><i>The subject property was not considered in the City's last area-wide rezone in 2015.</i></p> <p>Option 2 and Option 3: <i>The CO zone is currently applied to these properties. Because</i></p>

the CA zone also implements the Employment Area land use designation the rezone would remain consistent with the Comprehensive Plan.

The properties within Option 2 and/or Option 3 were not considered in the City's last area-wide rezone in 2015.

22. **Zoning Development Standard Compliance:** Not applicable

23. **Design Standards:** Not applicable

24. **Critical Areas:** None present

25. **Site Plan Review:** Not Applicable

26. **Compliance with Subdivision Regulations:** Not applicable

27. **Availability and Impact on Public Services:** Not applicable

I. CONCLUSIONS:

1. The subject site is located in the Employment Area (EA) Comprehensive Plan designation and complies with the applicable goals and policies of the Comprehensive Plan, see FOF 20.
2. The proposal is consistent with the rezone criteria, see FOF 21.
3. There are no Critical Areas located on the site, see FOF 24.
4. The proposed rezone is anticipated to be compatible with existing and future surrounding uses as permitted in the CA zoning classification, see FOF 8-11 and 21.
5. Although the proposed rezone of the subject site meets the rezone criteria, the rezone of only the subject site would be considered "spot zoning," which is characterized as applying a zone to a specific parcel or small amount of land thereby granting certain privileges (i.e., allowed uses) that are not afforded to surrounding properties that share common characteristics (e.g., land use, access, geography, structures, etc.), see FOF 12.
6. Because the requested rezone of the subject site meets the rezone criteria yet would result in spot zoning, staff recommends considering expansion of the potential rezone to other properties identified as Option 2 and Option 3 in Exhibits 1-5, which also satisfy the rezone criteria (see FOF 21) and, based upon the differences between the purpose statements of the CO and CA zones (see FOF 9-11), are more appropriate sites and uses under CA zoning.

J. RECOMMENDATION:

Staff recommends approval of the 4242 East Valley Road Rezone from CO to CA in conjunction with a rezone of the land within either Option 2 or Option 3 (see Exhibits 1-5) from CO to CA. Staff recommends denial of the 4242 East Valley Road Rezone as a standalone rezone affecting only the subject site.